



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

Agency: Department of Ecology AO # 11-05

☒ **Preproposal Statement of Inquiry was filed as WSR** 11-14-110 ; or

☐ **Expedited Rule Making--Proposed notice was filed as WSR** _____ ; or

☐ **Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).**

☒ **Original Notice**

☐ **Supplemental Notice to WSR** _____

☐ **Continuance of WSR** _____

Title of rule and other identifying information: (Describe Subject) Preassessment Screening and Oil Spill Compensation Schedule Regulations Chapter 173-183 WAC

Hearing location(s):

SEE ATTACHMENT A

Date: _____ Time: _____

Submit written comments to:

Name: Rebecca Post

Address: PO Box 47600, Olympia, WA 98504

e-mail spillsrulemaking@ecy.wa.gov

fax (360) 407-7288 by October 4, 2012

Assistance for persons with disabilities: Contact: Mary Ellen Voss (360) 407-7211 by September 20, 2012. If you have hearing loss, call 711 for Washington Relay Service. If you have a speech disability, call (877) 833-6341

Date of intended adoption: December 14, 2012

(Note: This is **NOT** the **effective** date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

This rule making will update the Preassessment Screening and Oil Spill Compensation Regulations, Chapter 173-183 WAC to incorporate in the new requirements in Chapter 122 of Laws of 2011 (HB 1186). The proposed amendments will do the following:

- Update the monetary amount of compensation that can be calculated for spills of 1,000 gallons or greater in volume. This will change the current range of \$1 to \$100 to a new range of \$3 to \$300 per gallon spilled.
- Amend the mathematical formula multipliers contained in WAC 173-183 sections 830, 840, 850, and 860, to reflect the above update.
- Define persistent oil, non persistent oil, non-petroleum oil, recovered oil, and shoreline for the purposes of this rule.
- Codify the method to provide credit back to a spiller for their early on-water recovery actions by moving the Resource Damage Assessment Committee Resolution 96-1.1 from guidance into rule (24 hour recovery credit for non-persistent oils) and replacing the existing language in WAC 173-183-870.
- Develop the method to provide credit back to a spiller for their early on-water recovery actions by now allowing for a 48 hour recovery credit for persistent oils.

Reasons supporting proposal: These updates are required by Chapter 122 of the Laws of 2011(HB 1186) and because the rule updates move guidance into rule. Without these changes, the current formulas are incapable of achieving the full range of compensation required. The new law specifically addresses persistent oil and sets a time of 48 hours to get credit for recovered oil. The current guidance gives 24 hours for all oil types. The proposed language addresses these differences and moves all recovery credit guidance into rule.

Statutory authority for adoption: RCW 90.48.366, RCW 90.56.050, and RCW 90.48.035

Statute being implemented: 90.48 RCW as modified by 2011 Legislature - Chapter 122, 2011 Laws (E2SHB 1186)

Is rule necessary because of a:

Federal Law?

☐ Yes ☒ No

Federal Court Decision?

☐ Yes ☒ No

State Court Decision?

☐ Yes ☒ No

If yes, CITATION:

DATE 8/14/12

NAME (type or print)

Polly Zehm

SIGNATURE

Polly Zehm

TITLE

Deputy Director, Department of Ecology

CODE REVISER USE ONLY

**OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED**

DATE: August 14, 2012

TIME: 10:44 AM

WSR 12-17-074

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

N/A

Name of proponent: (person or organization) Washington State Department of Ecology

- ☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Rebecca Post	Department of Ecology, Headquarters, Lacey WA	(360) 407-7114
Implementation....Dave Byers	Department of Ecology, Headquarters, Lacey WA	(360) 407-6974
Enforcement.....Rebecca Post	Department of Ecology, Headquarters, Lacey WA	(360) 407-7114

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

☒ Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name: Education and Outreach Specialist

Address: Spills Program

PO Box 47600

Olympia, WA 98504-7600

phone (360) 407-7455

fax (360) 407-7288

e-mail spillsrulemaking@ecy.wa.gov

☐ No. Explain why no statement was prepared.

Is a cost-benefit analysis required under RCW 34.05.328?

☒ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Education and Outreach Specialist

Address: Spills Program

PO Box 47600

Olympia, WA 98504-7600

phone (360) 407-7455

fax (360) 407-7288

e-mail spillsrulemaking@ecy.wa.gov

☐ No: Please explain:

ATTACHMENT A

Public Hearings for the rule proposal for Chapter 173-183 WAC Preassessment Screening and Oil Spill Compensation Schedule Regulations

Hearing 1 –Marysville combined with a webinar

Date: September 25, 2012

Time: 3:00 PM - Presentation, question and answer session followed by the formal public hearing.

Location:

Holiday Inn Express
Skykomish Room
8606 36th Avenue NE
Marysville, WA 98270

How to comment by webinar during the September 25th Marysville hearing.

Webinar: Ecology is also offering this presentation, question and answer session and formal public hearing via webinar. Webinars are an online meeting forum that you can attend from any computer using internet access. To participate by phone, you will need to have a phone or computer with phone modem capability. For more information and instructions, go to http://www.ecy.wa.gov/programs/spills/community_outreach/sppr_webinar.html

Comments: Ecology will accept formal comments at the Marysville location and through the webinar audio portion by calling (800) 704-9804 / participant code (88955236#). For more information and instructions, go to http://www.ecy.wa.gov/programs/spills/community_outreach/sppr_webinar.html

To join the webinar click on the following link for more information and instructions:
http://www.ecy.wa.gov/programs/spills/community_outreach/sppr_webinar.html

Hearing 2 – Pasco

Date: September 26, 2012

Time: 6:00 PM - Presentation, question and answer session followed by the formal public hearing.

Location:

Columbia Basin College,
Building B, Room B116
2600 North 20th Avenue
Pasco, WA 99301